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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/202,463	08/19/99	BRUNDELL J	100096.401

HM22/0820

SEED & BERRY
6300 COLUMBIA CENTER
SEATTLE WA 98104-7092

EXAMINER	
TURNER, S	
ART UNIT	PAPER NUMBER
1647	10

DATE MAILED: 08/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.	Applicant(s)
09/202,463	Brundell et al.
Examiner	**Art Unit**
Sharon L. Turner, Ph.D.	1647

-- The MAILING DATE of this communication appears on th cover sheet with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATIC N.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 7-19-01

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-18 is/are pending in the applica

4a) Of the above, claim(s) _____ is/are withdrawn from considera

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims 1-18 are subject to restriction and/or election requirem

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other

DETAILED ACTION

Sequence Compliance

1. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132.

Applicant is given ONE MONTH from the mailing date of this communication within which to comply with the sequence rules, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). Direct the reply to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the reply.

In particular applicant is directed to MPEP 2423, 37 CFR 1.822(e) and claim 6 which does not comply with the sequence rules.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Groups I-V, claim(s) 1-6, 11 and 16-18 drawn to the extent of the first through fifth appearing special technical feature and first method of use of peptide subfragments of SEQ ID Nos:2, 3, 5, 7 and 8 respectively.

Group VI-X, claim(s) 7-9, 13-15 and 16-18 drawn to the extent of the second special technical feature and first appearing use of monoclonal antibodies characterized by specifically binding the peptides of Groups I-V, respectively.

Group XI, claim 12 drawn to the second method of use of the first through fifth special technical feature.

3. The inventions listed as Groups I -XI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical features of Groups I-V, VI-X and XI, do not share in common the a special technical feature core structure of amino acids, antibody of identical structure and binding specificity or common us as designated in the claims. The peptides differ in amino acids, the antibodies differ in reactivity and the method of claim 12 is the second functional use of the first through fifth designated special technical feature of applicants choice.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143). For clarification, if applicants elect Group I, they elect the peptide subfragments of SEQ ID NO:2 for example. If applicants elects Group VI, they elect the monoclonal antibody reactive to a peptide subfragment of SEQ ID NO:2.

5. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows: The individual species (combination/subcombination of molecules disclosed as useable together) kit components wherein the components are of the designated peptides and antibodies of Groups I-X set forth above.

Applicant is required, in reply to this action, to elect the kit species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP

§ 809.02(a). For further clarification the applicant is required, regardless of the group elected, to designate the essential kit components of the claims to which the search of the claims will be initially restricted.

6. The claims are deemed to correspond to the species listed above in the following manner:

The species are those peptide subfragments and monoclonal antibodies as designated in Groups I-X as set forth above.

The following claim(s) are generic: 16-18

7. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The species lack the same amino acid structure and immunoreactivity as set forth above.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

9. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Turner, Ph.D. whose telephone number is (703) 308-0056. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (703) 308-4623.

Sharon L. Turner, Ph.D.
August 17, 2001

CHRISTINE J. SAOUD
PRIMARY EXAMINER

Christine J. Saoud